Calendar No. 941

100TH CONGRESS
2d Session

SENATE

REPORT
100–511

NATIONAL FOREST AND PUBLIC LANDS OF NEVADA ENHANCEMENT ACT OF 1988

SEPTEMBER 15 (legislative day, SEPTEMBER 7), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 59]

The Committee on Energy and Natural Resources to which was referred the bill (S. 59) entitled the "National Forests and Public Lands of Nevada Enhancement Act of 1987", having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest and Public Lands of Nevada Enhancement Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the public lands transferred by this Act contain valuable natural resources (such as watershed, range, outdoor recreation and wildlife habitat) which will be enhanced by the professional, multiple-use management of the Forest Service; and that certain national forest lands would be enhanced by the professional multiple-use management of the Bureau of Land Management;

(2) the public which uses these natural resources will be benefited by such adjustments in management;

(3) the public lands transferred by this Act to the jurisdiction of the Forest Service are adjacent to existing national forests and, in many cases, are part of the same watersheds and mountain ranges, and placing the management of these lands under the administration of one agency, the Forest Service, will improve efficiency and be cost effective; that similar efficiency and cost effectiveness will result from transferring jurisdiction of certain national forest lands to the Bureau of Land Management and;

S313-50

(4) there is a consensus in Nevada that certain lands should be added to the national forest system and that certain national forest system lands should be transferred to the Bureau of Land Management for management.

(b) PURPOSES.—The purposes of this Act are—

(1) to transfer to the jurisdiction of the Forest Service, United States Department of Agriculture, certain public lands in Nevada currently administered by the Bureau of Land Management, United States Department of the Interior. These public lands are contiguous to the Toiyabe and Inyo National Forests and will become National Forest System lands; and

(2) to transfer to the jurisdiction of the Bureau of Land Management, United States Department of the Interior, certain lands in Nevada currently administered by the Forest Service, United States Department of Agriculture. These lands are contiguous to other public lands and will be managed as such.

SEC. 3. DEFINITIONS.

As used in this Act—

(a) the term "public lands" means the lands administered by the Bureau of Land Management, United States Department of the Interior, as defined in section 103(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(e)); and

(b) the term "National Forest lands" or "National Forest System lands" means the lands administered by the Forest Service, United States Department of Agriculture, as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

SEC. 4. TRANSFER OF LANDS.

(a) TRANSFER OF PUBLIC LANDS TO THE FOREST SERVICE.—Effective one hundred and eighty days after the enactment of this Act, the approximately six hundred sixty-two thousand acres of public lands designated for inclusion in the National Forest System on three maps entitled "Nevada Interchange-A", dated January 1987, "Nevada Interchange-B", dated February 1988, and "Nevada Interchange-C", dated August 1988, are hereby withdrawn from the public domain, transferred to the jurisdiction of the Secretary of Agriculture, and shall become part of the Toiyabe National Forest or the Inyo National Forest, as appropriate.

(b) BOUNDARIES OF TOIYABE AND INYO NATIONAL FORESTS.—(1) The boundaries of the Toiyabe National Forest and the Inyo National Forest are hereby modified to reflect the transfer of lands under subsection (a).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Toiyabe National Forest, as modified by this subsection, shall be treated as if they were the boundaries of those National Forests as of January 1, 1965.

(c) TRANSFER OF FOREST SERVICE LANDS TO THE BUREAU OF LAND MANAGEMENT.—Effective 180 days after the enactment of this Act, the approximately 23,000 acres of national forest lands identified for management by the Bureau of Land Management on a map entitled "Nevada Interchange-A" and dated January 1987, are hereby transferred to the Secretary of the Interior.

(d) MAPS.—The maps referred to in subsection (a) and subsection (c) shall be on file and available for public inspection in the offices of the Governor of Nevada, the Supervisors of the Toiyabe and Inyo National Forests, the Nevada State Director of the Bureau of Land Management, the Chief of the Forest Service, and the Director of the Bureau of Land Management. The Secretaries of Agriculture and the Interior may make minor changes to the maps to correct technical errors.

(e) Effective 180 days after enactment of this Act, lands transferred by subsection (a) of this section to the jurisdiction of the Secretary of Agriculture shall be subject to the planning requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, and lands transferred by subsection (c) of this section to the jurisdiction of the Secretary of the Interior shall be subject to the planning requirements of the Federal Land Policy and Management Act of 1976. All transferred lands shall continue to be managed in accordance with plans in effect on the date of enactment of this Act until considered in plans developed under applicable provisions of law. If no plans are in effect on the date of enactment of this Act, the respective transferred lands shall be managed in a manner consistent with other national forest or public lands, as the case may be, in the vicinity until a plan is developed under applicable provisions of law. Nothing in this Act shall of itself require the amendment or revision of the existing plans governing public lands or national forest lands affected by the addition of or deletion of lands transferred by this Act.

SEC. 5. WILDERNESS SUITABILITY.

(a) BLM WILDERNESS STUDY AREAS.—Any area or portion thereof designated as a Bureau of Land Management Wilderness Study Area, which is made a part of the National Forest System by this Act, shall be managed by the Secretary of Agriculture in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), to protect its wilderness character until Congress designates it as wilderness or releases it from further wilderness consideration. At the same time that the Secretary of the Interior submits wilderness recommendations to the Congress with regard to public lands in the State of Nevada, he shall also recommend to the Congress whether any wilderness study area or portion thereof transferred to the jurisdiction of the Forest Service by this Act should be included in the National Wilderness Preservation System.

(b) ROADLESS AREAS NOT RECOMMENDED AS WILDERNESS.—Any roadless area or portion thereof which is made a part of the National Forest System by this Act and which has been considered but not recommended for designation as wilderness pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans hereafter required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The Secretary of Agriculture shall not be required to review the wilderness option for such area prior to the next regular revision of such plans for the national forest in question, but the Secretary of Agriculture shall review the wilderness option for such area when such plans are revised.

(c) If the Secretary of the Interior does not recommend for wilderness designation all or any portion of the one hundred sixty acres of land described in this subsection, the Secretary of Agriculture is authorized to offer for sale all or any portion of such land not recommended for wilderness at fair market value to Sky Mountain Resort, its successors or assigns. If the Secretary of Agriculture decides to sell such land, he shall notify Sky Mountain Resort, its successors or assigns in a timely manner, and proceed with the sale, provided that the prospective purchaser indicates an interest in such purchase within six months of the date of the Secretary of Agriculture's offer to sell such land. The land is described as follows:

Mount Diablo Meridian
Township 20 South, Range 57 East,
Section 28
Southeast ¼ of Southeast ¼
Northwest ¼ of Southeast ¼
Northeast ¼ of Northeast ¼
Section 34, Southeast ¼ of Northwest ¼

(d) NO ADDITION TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.—Nothing in the Act shall be construed to add lands to the National Wilderness Preservation System.

SEC. 6. MANAGEMENT OF MINERAL RESOURCES.

Nothing in this Act shall be construed to change the laws governing the management of mineral resources.

SEC. 7. ADMINISTRATION OF RECEIPTS.

The acreage added to the Toiyabe and Inyo National Forests in the State of Nevada by this Act shall not be counted in determining the distribution of the Twenty-Five Percent Fund between the States of California and Nevada under the Act of May 23, 1908, as amended: *Provided, however,* That the acreage added to these forests shall be counted in the distribution of the Twenty-Five Percent Fund among the affected counties in Nevada.

SEC. 8. WATER RIGHTS.

(a) Congress hereby expressly reserves the minimum quantity of water necessary to achieve the primary purposes for which the lands transferred pursuant to section 4(a) are withdrawn. Those purposes are hereby declared to be solely and exclusively the primary purpose for which the National Forests within which the lands are to be included were established. The priority date for such reserved rights shall be the date of transfer pursuant to this Act and such rights shall be perfected pursuant to the procedural requirements of the laws of the State of Nevada.

(b) Congress hereby expressly relinquishes all federal reserved water rights created by the initial withdrawal from the public domain of the lands transferred pursuant to section 4(c) effective on the date of such transfer.

(c) Nothing in this Act shall create an implied reservation of water.

(d) Nothing in this Act shall affect the right of the United States or of any person to acquire or dispose of water or water rights pursuant to the substantive and procedural requirements of the laws of the State of Nevada.

SEC. 9. VALID EXISTING RIGHTS.

(a) Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorization shall be administered by the Secretary to whom jurisdiction over affected lands has been transferred by this Act: Any renewal or extension of such authorization shall be subject to the laws and regulations pertaining to the agency which has jurisdiction over the land at the time the renewal or extension is requested. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

SEC. 10. ADMINISTRATIVE APPEALS.

With respect to the lands transferred by section 4, any formal administrative appeal, adjudication, or review pending on the date of transfer of jurisdiction under this Act shall be completed by the Secretary, or his designee, of the Department in which it was initiated.

SEC. 11. TRANSFER OF BUREAU OF RECLAMATION'S WILBUR SQUARE RESPONSIBILITIES TO THE CITY OF BOULDER CITY.

(a) Nothwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enter into an agreement with the City of Boulder City, Nevada (hereinafter referred to as the "City"), which will provide that, upon acceptance by the City of title to and financial responsibility for continued maintenance of the parcel of land described in this subsection, all remaining repayment obligations owing to the United States, pursuant to contract No. 14-06-300-978, dated January 4, 1960, between the United States and the City, as of the date of enactment of this Act, shall be discharged. The land shall be maintained as a public park by the City at its own cost and expense, and shall be conveyed to the City, without consideration, by Quit Claim Deed subject to the conditions, restrictions, and protective covenants as established in the Guidelines of the Advisory Council on Historic Preservation (36 Code of Federal Regulations, part 800). Title shall revert to the United States if the land ceases to be used for park purposes. The agreement shall also stipulate that the City shall provide, without cost to the United States, the water supply required to water the Federal grounds surrounding the Bureau of Reclamation's administration building in the City, for as long as Federal ownership is retained, or through the year 2010, which ever occurs first. The land to be conveyed to the City is described as follows: approximately 3.25 acres, comprising all of Block Six, according to Sheet 1 of 20, Block Plats of Boulder City, Nevada, Drawing No. X-300-460, dated July 15, 1959, and known as Wilbur Square or Government Park.

(b) The Secretary of the Interior is authorized to enter into an agreement for the City to provide gardening services on Bureau of Reclamation land within the City; and in partial payment for this gardening service to transfer to the City any or all lawn and garden equipment owned and used by the Bureau of Reclamation as of the date of enactment of this Act, which is used to maintain the Bureau's grounds within the City; and

(c) The Secretary of the Interior is authorized to transfer title to the City to all or any portion of the City water supply system which remains in Federal ownership and is located outside of the Hoover Dam Security Area, and to provide the City with a permanent easement across all Federal lands necessary to properly operate and maintain any facilities so transferred. The agreement referred to in this Section shall also provide that all obligations to make payments to the United States for operation, maintenance, and replacement for works transferred to the City shall be discharged as of the date or dates of said transfer of title or operations and maintenance responsibility to the City.

2. Amend the title so as to read:

A bill entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988".

PURPOSE OF THE MEASURE

The primary purpose of S. 59, as ordered reported, is to transfer jurisdiction of approximately 23,000 acres of Federal land from the Forest Service to the Bureau of Land Management and approximately 662,000 acres from the Bureau of Land Management to the Forest Service.

BACKGROUND AND NEED

Since 1983, the Administration has proposed that the Congress enact legislation to "interchange" certain lands between the Forest Service [FS] and the Bureau of Land Management [BLM]. The Administration proposal would transfer approximately 15 million acres from the BLM to FS and approximately 10 million from the BLM to the FS. The proposal would also consolidate various field offices of the two agencies; reduce personnel; transfer jurisdiction over mineral resources from the BLM to the FS for those lands where the Forest Service manages the surface; give the Forest Service new authority with regard to the issuance of patents and the preparation and retention of various land records for lands it manages; and consolidate or transfer various other functions to promote more efficient land management and administration. The Administration has estimated that its proposal would save $32 million (net) in the first five years and some $14 million annually thereafter.

This nation-wide interchange proposal generated considerable controversy when it was proposed five years ago. Despite numerous modifications in the original proposal, no serious effort to enact the bill have been undertaken by the Congress. It is unlikely that this nationwide interchange proposal measure will be actively considered by the Congress in the near future.

S. 59, as ordered reported, embodies a significantly modified version of the Administration's interchange proposal for Nevada. The enactment S. 59 will provide for the interchange of certain lands between the BLM and FS but makes no changes in the basic administrative or management authority of either agency.

LEGISLATIVE HISTORY

S. 59 was introduced by Senators Hecht and Reid on January 6, 1987. A hearing was conducted by the Subcommittee on Public Lands, National Parks and Forests on June 30, 1987.

At the business meeting on Thursday, August 11, 1988, the Senate Committee on Energy and Natural Resources ordered S. 59, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on August 11, 1988, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 59 if amended, as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 59, the Committee adopted an amendment in the nature of a substitute. The substitute makes numerous minor changes in the bill as introduced; several technical and conforming amendments; and one substantive change.

The substantive change involves the transfer of some 150,000 additional acres from the BLM to the FS in the Hot Creek Mountain Range. These lands contain significant recreation, wildlife, and scenic values. This proposal would leave approximately one-half the Hot Creek Range to be managed by the BLM and one-half under the jurisdiction of the FS. The House-passed Nevada Interchange proposal transfers the entire range to the Forest Service.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 contains a series of self-explanatory findings and purposes regarding the proposed land interchange.

Section 3 defines the terms public lands, national forest lands, and national forest system lands.

Section 4 provides for the transfer of lands between the two agencies.

Subsection (a) provides for the transfer of 662,000 acres of public lands to the Secretary of Agriculture for administration as part of the Toiyabe and Inyo National Forests. These lands are depicted on appropriately referenced and dated maps.

Subsection (b) revises the boundaries of these two forests accordingly.

Subsection (c) transfers approximately 23,000 acres of national forest land, identified on an appropriately referenced and dated map, to the Secretary of the Interior for administration in accordance with the Federal Land Policy and Management Act of 1976.

Subsection (d) includes standard language relative to the preparation and filing of official maps.

Subsection (e) provides that lands transferred to the Secretary of Agriculture will be subject to the planning requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 and that lands transferred to the Secretary of the Interior would be subject to the planning requirements of the Federal Land Policy and Management Act of 1976. However, all transferred lands will continue to be managed in accordance with the plans and designations in effect on the date of enactment until the next planning cycle or until the plans are revised. Language is also included making it clear that no amendment to or revision of existing plans would be required as a result of this bill.

Section 5 contains language pertaining to the management of transferred roadless lands.

Subsection (a) requires the Secretary of Agriculture to protect the wilderness character of any BLM Wilderness Study Areas for the lands transferred to the Forest Service. It also requires the Secretary of the Interior to make recommendations to the President and to the Congress as to whether any of these areas should be designated wilderness. Those recommendations must be made no later than 60 days after the President submits his recommendations to

Congress as to which public lands in Nevada should be designated as wilderness. This language is intended to ensure that any BLM Wilderness Study Areas that become national forest lands will have the same protection and consideration for wilderness as they would if they remained under the administration of the Bureau of Land Management.

Subsection (b) releases other roadless areas of the public lands that are transferred to the Forest Service to nonwilderness uses. These lands already have been studied by the Bureau of Land Management for wilderness and have been released by the Bureau's planning process.

Subsection (c) includes a provision, not contained in the bill as introduced, authorizing (not directing), the Secretary of Agriculture to offer for sale at fair market value, a 160 acre parcel of land to Sky Mountain Resort. Such an offer may be made only if such parcel (or any portion thereof) is not recommended for inclusion in the Wilderness Preservation System by the Secretary of the Interior. A legal description of the parcel is also included.

Subsection (d) is self-explanatory.

Section 6 is self-explanatory.

Section 7 excludes the acreage added by S. 59 to the Toiyabe and Inyo National Forests from determinations of the share of receipts from the Twenty-five Percent Fund that exists between California and Nevada under the Act of May 23, 1908, provided, however, that the acreage added to those forests shall be counted in the distribution of the Twenty-five Percent Fund among affected counties in Nevada.

Section 8 contains language regarding water rights. This language has been modified slightly from the version included in S. 59 as introduced.

Subsection (a) expressly reserves to the United States, the minimum amount of water necessary to achieve the primary purposes for which the lands transferred to the National Forest System pursuant to section 4 are withdrawn. Those purposes are defined as the primary purposes for which the Toiyabe and Inyo National Forests were established. The priority date of this reserved right is the date of the transfer from the BLM to the FS pursuant to this Act. The rights are to be perfected pursuant to the procedural requirements of Nevada law.

Conversely, subsection (b) relinquishes all federal reserved water rights created by the initial withdrawal for forest purposes for those lands being transferred from the National Forest System to the BLM.

Subsections (c) and (d) are self-explanatory.

Section 9 includes language protecting valid existing rights and authorizations in effect for lands transfer pursuant to the Act. The language makes clear that any change in administrative jurisdiction resulting from this Act, shall not, in itself, constitute a basis for denying or approving the renewal or reissuance of any such authorization.

In this regard, the Committee understands that it is the policy of the Forest Service to limit individual grazing permittees to no more than 1,000 animals on Forest Service lands. The Committee is aware that this bill will result in the transfer, to the Forest Serv-

ice, of all or part of several grazing allotments. As a result of these transfers, it is likely that several grazing permittees will exceed the 1,000 animal limitation. The Committee does not intend that any of these permittees be required to reduce a herd to meet the 1,000 animal limitation, merely because the Congress has chosen to transfer all or part of their allotment to the jurisdiction of the Forest Service. The Committee is aware that the Forest Service can make exceptions to the 1,000 animal limitation, and expects the Forest Service to do so for permittees affected by this bill.

Notwithstanding the foregoing, the Committee expects the Forest Service to use its authority to properly manage the range resource, including adjusting the number of animals that may graze on the national forest lands created by this bill, when this is required for sound range management.

Section 10 is self-explanatory.

Section 11 dealing with certain Bureau of Reclamation activities in Boulder City, Nevada, was not included in the bill as introduced.

Subsection (a) authorizes and directs the Secretary of the Interior to enter into an agreement with Boulder City, Nevada whereby the City will be relieved of certain repayment obligations upon acceptance by the City of title and maintenance responsibility for a tract of land currently owned and maintained by Bureau of Reclamation. This land is to be administered by the City as a public park. In addition, the City shall provide water, at not cost, to the Federal grounds surrounding the Bureau's administration building for approximately 20 years.

Subsection (b) authorizes the Secretary to permit the City to provide landscaping services on Bureau property in the City in exchange for the gardening equipment used by the Bureau currently for such purposes.

Subsection (c) authorizes the Secretary, subject to payment under specified conditions, to transfer title to the City to all or any portion of the City water supply system which remains in federal ownership and to provide the City with an easement across federal lands to operate such facilities.

EXPERIMENTAL STEWARDSHIP PROGRAM

The Committee understands that the Experimental Stewardship Program for managing range resources is very popular in Nevada, and strongly encourages the Secretary of Agriculture and the Secretary of the Interior to continue any Experimental Stewardship Programs involving Federal lands transferred to the jurisdiction of their respective agencies by this bill.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 9, 1988.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 59, the National Forest and Public Lands of Nevada Enhancement Act of 1988, as ordered reported by the Senate Committee on Energy and Natural Resources on August 10, 1988. We estimate that enactment of this bill would not result in significant additional costs to the federal government.

S. 59 would specify terms and conditions for the transfer of approximately 662,000 acres of Bureau of Land Management (BLM) land in Nevada to the Forest Service (FS) and approximately 23,000 acres of FS land to the BLM. The Secretary of Agriculture would be authorized, under certain circumstances, to sell to the Sky Mountain Resort approximately 160 acres of the land transferred to the FS. Information from both the FS and BLM indicates that this exchange and related provisions will not result in significant additional costs to the federal government.

The bill would also provide for the transfer of 3.25 acres of land, the federal portion of a municipal water supply system, and certain gardening equipment from the Bureau of Reclamation (BOR) to Boulder City, Nevada. The city would be relieved of all remaining repayment obligations for the water system as well as all further obligation to pay to the federal government annual operation, maintenance, and replacement costs for the system. In return for this relief, the city would be required to maintain the land as a public park and would be required to provide water and gardening services for other specified land within the city limits. These provisions are estimated to result in net savings to the federal government and net additional costs to the city of approximately $20,000 annually.

Enactment of this bill would not otherwise affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226–2860.

Sincerely,

JAMES L. BLUM, *Acting Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 59. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact of personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 59, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to S. 59 is set forth below.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 7, 1987.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department on S. 59, a bill entitled, "The National Forests and Public Lands of Nevada Enhancement Act of 1987."

The Department of Agriculture recommends enactment of the Administration's proposal for a nationwide interchange between the Bureau of Land Management and the Forest Service in preference over S. 59.

S. 59 would transfer approximately 511,000 acres of public lands administered by the Bureau of Land Management in Nevada to the Forest Service. The affected lands are in the Spring Mountains (Las Vegas District of the Toiyabe National Forest) and in the eastern Sierras (Toiyabe and Inyo National Forests). S. 59 would also transfer 23,000 acres of National Forest System lands administered by the Forest Service to the Bureau of Land Management. These lands are in the eastern Sierras (Toiyabe and Inyo National Forests).

S. 59 would require that the transferred land be managed under the current plans in effect at the time of transfer. This situation would continue until the plans are revised under the planning authorities of the agency managing the land at that time. The bill also provides that existing valid water and other outstanding rights would not be affected by the land transfer.

We would prefer enactment of the overall BLM/FS interchange, as explained in the Record of Decision for the Legislative Environmental Impact Statement transmitted to the Congress in February of 1986 (copy enclosed). This Record of Decision also explains our objections to the concept of individual State interchanges, such as S. 59.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

PETER C. MYERS, *Deputy Secretary.*

Enclosure.

RECORD OF DECISION

BUREAU OF LAND MANAGEMENT/FOREST SERVICE INTERCHANGE
LEGISLATIVE ENVIRONMENT IMPACT STATEMENT

The Bureau of Land Management (BLM), Department of the Interior, and the Forest Service, Department of Agriculture, propose an interchange of land and minerals jurisdictions with the goals of

(1) improving service to the public, (2) improving the efficiency of management of the natural resources on public and National Forest System lands, and (3) reducing agency costs.

Based on the results of the analysis conducted for the Interchange, it is our decision to recommend to Congress the alternative identified in the Legislative Environmental Impact Statement (LEIS) as the "Proposed Action" as the plan for implementing the Interchange. The recommended alternative incorporates all practicable means to avoid or minimize potential environmental harm from the Interchange by ensuring, insofar as possible, that present management of Federal minerals and public and National Forest System lands involved in the Interchange will continue following the transfer of jurisdiction.

The results of the analysis in the LEIS indicate that none of the alternatives would result in significant impacts to the physical or biological environment and that social and economic impacts would be minor. Therefore, all of the alternatives are equally "environmentally preferable."

The recommended alternative (Proposed Action) appears to provide the best balance between meeting the goals of the Interchange and jurisdictional boundaries acceptable to the public, industry and interest groups. The Proposed Action will:

Improve service to the public, providing "one-stop shopping" for permittees and the general public by:

—consolidating land and minerals jurisdiction within the agency responsible for surface management, with clearly defined areas of jursidiction;

—reducing the number of BLM/FS two-agency towns from 71 to 35;

—reducing the number of permittees who must deal with both agencies by about 15,500.

Improve management efficiency by:

—consolidating management jurisdiction and offices, thereby reducing coordination requirements and duplication of effort;

—cleaning up irregular boundaries;

—allowing a reduction in the total number of permits and leases issued and supervised by the agencies.

Reduce agency costs by an estimated $56 million in the first five years and $14 million per year thereafer, with estimated implementation costs of $24 million during the first five years. This is consistent with national policy to reduce government spending and work toward a balanced budget.

Other Alternatives Considered:

June 7 Alternative.—This alternative is the proposal which was announced to the public on June 7, 1985, and circulated for public comment. It would result in greater savings and better overall management efficiency than the Proposed Action, but contains boundaries which received considerable opposition during the public comment period.

Intermingled Lands Alternative (with transfer of minerals jurisdiction).—This alternative would result in some improvement of management efficiency, since land and minerals jurisdiction would be consolidated within the agency responsible for the surface. How-

ever, since existing minerals personnel would simply transfer from BLM to the Forest Service and the amount of lands transferred would generally not result in reduced staffing needs or consolidating offices, only minor savings in agency costs would be possible.

Intermingled Lands Alternative (without transfer of minerals jurisdiction.—This alternative would allow some minor straightening of agency boundaries, but otherwise would not result in significant progress toward meeting the goals of the Interchange.

Individual State Legislation Alternative.—Conceptually, this alternative should have the same overall effect toward meeting the Interchange goals as the Proposed Action. In practice, however, this alternative poses serious implementation problems. It would be extremely difficult to place displaced employees from one State when the legislation concerning other States is still being considered by Congress. It would also be difficult to get employees to transfer to an office which is proposed to be eliminated or consolidated with an office of the other agency, even though it may be several years before Congress passes the legislation. The public and agency employees would face a much longer period of uncertainty while the individual State legislative packages are considered, and it would be nearly impossible to adjust agencywide organizations until all State packages have been enacted. Finally, there is the real possibility that similar issues would be treated differently in different States. For instance, the Forest Service might be given minerals jurisdiction in some States, but not others. At the very least, there would be a period of time when this would be the case, when some State legislation has been enacted but not others, making it very difficult to maintain consistent national policy and procedure. For these reasons, this alternative is probably the least desirable of the alternatives considered.

No-Action Alternatives (Continuation of Present Management).—This Alternative would cause the least concern and disruption of service to the public because there would be no change in agency jurisdictions. There also would be no savings, nor would the alternative meet the other goals of the Interchange.

DONALD PAUL HODEL,
Secretary of the Interior.
JOHN R. BLOCK,
Secretary of Agriculture.

STATEMENT OF ROBERT F. BURFORD, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to appear before the Subcommittee today to discuss the Department of the Interior's position on S. 59.

We could support enactment of S. 59 if it were amended to include more States. We have substantial concerns with S. 59 as currently drafted. We strongly suggest that the bill include a larger geographic region so that the purposes of the bill—economical and efficient management and improved service to the public—are accomplished. We also suggest that the bill include certain provisions that are identified in the Administration's Nationwide Interchange Bill for the proper transition and administration of specific lands designations. We believe the best opportunity to achieve the goals

of the interchange program for overall dollar savings and administrative efficiency is through enactment of a nationwide proposal. Individual State legislation would fall far short of the savings and efficiencies generated by a single nationwide bill.

The largest single factor in calculating the savings was the reduction of overhead and administrative personnel that would be made possible by consolidating the Bureau of Land Management and Forest Service offices and reducing the total number of offices. Our research indicates that no significant savings would be realized with enactment of S. 59 in the short or long terms. In fact, the costs of distributing records, case files, establishing the new boundaries, and the confusion inherent in these actions, would likely result in significant added costs, with little or no savings or improvement in public service.

S. 59 would be cited as the "National Forests and Public Lands of Nevada Enhancement Act of 1987."

Section 2 of S. 59 contains congressional findings and purposes of the bill. The purposes would be to transfer to the Forest Service certain public lands in Nevada currently administered by the Bureau of Land Management and to transfer to the Bureau of Land Management certain national forest lands in Nevada currently administered by the Forest Service. The lands identified for transfer are contiguous to other lands administered by the proposed agency.

Section 3 would define the terms "public lands" and "National Forest lands" or "National Forest System lands".

Section 4 would provide for the transfer of about 511,000 acres of public lands identified on a map to the Toiyabe and Inyo National Forests. Section 4 would also provide for the transfer of approximately 23,000 acres of national forest land identified on a map to the Secretary of the Interior.

Section 4(e) would provide that lands transferred to the Secretary of the Agriculture would be subject to the planning requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 and that lands transferred to the Secretary of the Interior would be subject to the planning requirements of the Federal Land Policy and Management Act of 1976. Amendment or revision of existing plans would not be required as a result of this bill.

Section 5 of S. 59 would provide for management by Secretary of the Agriculture, in accordance with section 603(c) of the Federal Land Policy and Management Act, of the BLM Mount Stirling and LaMadre Mountains Wilderness Study Areas that would be made part of National Forest Systems by the bill until Congress designates the areas as wilderness or releases them from further wilderness consideration.

Section 5(c) would provide that any roadless area, or portion thereof on national forest lands recommended by the Secretary of the Agriculture for wilderness which would be transferred to the jurisdiction of the Secretary of the Interior as a result of this bill, would be managed by the Secretary of the Interior in accordance with the provisions of 603(c) of the Federal Land Policy and Management Act.

Section 6 would provide that nothing in the bill should be construed to change the laws governing the management of mineral resources.

Section 7 omits the acreage added by S. 59 to the Toiyabe and Inyo National Forests from determinations of the share of receipts from the Twenty-five Percent Fund that exists between California and Nevada under the Act of May 23, 1908, provided, however, that the acreage added to these forests shall be counted in the distribution of the Twenty-five Percent Fund among affected counties in Nevada.

Section 8 would provide that nothing in the bill shall be construed to expand or diminish any water right of the United States under State or Federal law which the United States had, or may be determined to have had by purchase, reservation or otherwise, prior to enactment of S. 59. Moreover, nothing in the bill would affect the right of the United States or of any person to acquire or dispose of water or water rights under applicable law.

Section 9 of S. 59 would protect valid existing rights.

Section 10 would provide that administrative appeals, adjudications or reviews that are pending on the date of enactment would be completed by the Secretary of the Department in which they were initiated, except that the Secretary of the Department having jurisdiction over the land pursuant to this bill could exercise final administrative review. As a point of clarification, the reference to section 3 should be changed to section 4.

S. 59 deals exclusively with lands in the State of Nevada transferring certain public lands presently administered by the Bureau of Land Management to the Forest Service and certain national forest lands to the Bureau of Land Management. The Administration has proposed a nationwide interchange of lands between the Bureau of Land Management and the Forest Service. This proposal was submitted to the Congress on April 23, 1987. While S. 59 proposes to transfer the same lands within Nevada that are included within the Administration's broader proposal, it does not generate the savings and efficiencies that would result from the single nationwide bill. Therefore, we recommend that the Subcommittee consider the nationwide proposal in lieu of S. 59.

The Administration's proposal was developed after many months of careful and thorough consideration. To gain public input to the Interchange proposal, the Forest Service and BLM, on a multi-state basis, conducted 85 public meetings in 1985; recorded over 600 consultations with Congress, interest groups, individuals, and government entities; and held a formal public comment period, including 30 public hearings. In addition, we conducted numerous meetings and discussions with congressional members and staff to resolve issues and concerns identified since 1985. As a result of this process, the bill developed by the Administration would meet the purpose of this effort—to increase efficiency of natural resource management by merging organizational units within the same geographic area, reducing personnel needs and duplication of offices, overhead, travel and administrative functions. All of this would result in a reduction of costs to the government, representing a savings of 14 to 15 million dollars annually, and an improvement of service to the public.

The goals stated in S. 59 are similar to those in the Administration's Nationwide Interchange proposal. Unfortunately, as it is written, S. 59 does not meet the goals or result in the benefits that a Nationwide Interchange bill would generate.

S. 59 does not provide for clear, orderly separation of administrative responsibilities under the land laws. Questions remain over several common land management situations. One significant area that is not covered by S. 59 is the authorization and administration of lands under leases and patents issued pursuant to the Recreation and Public Purpose Act and existing applications for such leases. Leases or patents under the Recreation and Public Purpose Act provide a major public benefit and are a main source of lands to expanding communities for important public services.

There are several Recreation and Public Purposes Act leases, patents or applications for leases on the lands to be transferred to Forest Service administration under this bill. These leases and patents provide such services as a county sponsored summer camp for troubled youth, church sites, school sites, several community parks and rural landfill sites. Under existing applications for a Recreation and Public Purposes Act lease are such proposals as a private youth camp, a state highway maintenance station, a county sewage treatment facility, a jail, fire station and several school sites. Currently the Forest Service has no authority to administer this program to provide these services. S. 59 does not provide such authority. The Administration's nationwide proposal does provide authority for these activities.

Also S. 59 makes no provision for continuity of the land sale procedures, or for the treatment of pending applications for sales to local governments and private citizens. There are existing proposals for sales which would exceed the present ability of the Forest Service to process and administer under the only authority to sell that they have—the Act of January 22, 1983, that is popularly known as the Small Tracts Act. The Nationwide Interchange proposal provides for continuity in sales actions. It also provides for continuity of uses and authority for and protection of existing permits. If S. 59 is enacted, we suggest that provisions similar to these be included.

S. 59 is unclear on a variety of other matters, such as provisions for adopting the other agency's regulations, issuing joint regulations on similar programs administered by both Forest Service and BLM, title record responsibilities or severability of any provision within the Act. These activities are addressed in the nationwide proposal.

The adverse impact of S. 59 on consistent and comprehensive managment within the State of Nevada and among other States needs to be emphasized because it could be considerable. If the authorities to administer lands under which the Bureau of Land Management operates are granted to the Forest Service for the two national forests covered by S. 59, those forests would be administered differently than all other national forests. This situation would likely lead to inconsistencies in management within Nevada and elsewhere. For instance, the authority to handle Recreation and Public Purposes Act leases would not apply to other national forest lands. It would therefore be necessary for the Forest Service

to develop regulations specific to just two of the 154 proclaimed national forests within the national forest system. The Administration's Interchange bill would clarify land entry, sales and withdrawal provisions on a nationwide basis, while also ensuring continuity in public service between national forest and public lands throughout and among states.

S. 59 would likely open the door to other state-by-state proposals for land exchange which might only lead to further inconsistencies in management procedures among states, if the individual interchange laws were not identical.

In summary, we support the concept of land adjustments between the Bureau of Land Management and the Forest Service. However, the findings in subsections 1 through 3 of section 1 of S. 59 and the objectives of the bill would be only minimally achieved. They could be achieved more effectively and efficiently on a multistate basis. Transfers of land on an individual state basis as proposed by S. 59 do not provide a coherent approach to adjusting boundaries. Such adjustments should be on a broad-scale basis rather than on a state-by-state basis because of the probability that issues would be treated differently among states. Administrative jurisdiction and land holdings of the two agencies often cross State boundaries. Thus the most practical approach to adjusting land ownership patterns is on a nationwide basis which would allow interstate holdings to be adjusted. We still believe that the Administration's approach is appropriate and should be followed. lowed.

S. 59, as drafted, may achieve limited benefits. However, the addition of other states with lands identified for transfer between the Forest Service and the Bureau of Land Management would improve public land management patterns and provide an opportunity for achieving some of the efficiencies, cost savings and public service improvements identified.

Under the Nationwide Interchange proposal, mineral authority would be transferred to the Forest Service. S. 59 does not have that provision, nor do we believe that it can be done on a state by state basis. Some of the savings identified in the legislative analysis of the Nationwide Interchange proposal were calculated on the basis of eliminating the need for both the Forest Service and the Bureau of Land Management to visit the same areas when processing a variety of applications.

S. 59 would result in no significant savings of personnel or administrative costs, and, as I said, only minimal improvements in public service, since no offices would be affected. Some permittees and other users of the lands would simply deal with a different office and agency than they have in the past.

As I said earlier, we recommend that Congress enact the nationwide bill—the Administration's Interchange proposal, instead, as it would lead to more efficient land management, improved service to the public, and economic benefits in the administration of Federal lands. These goals can be attained and these are the reasons we continue to support the Interchange concept.

This concludes my statement. I will be pleased to respond to any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 59, as reported.

○